

BILL

1 **SECTION 95.** 30.123 (5) of the statutes is repealed.

NOTE: This repeals a requirement that bridges constructed over navigable streams be maintained in a safe condition, as determined by the DNR. The DNR does not have the expertise to review bridge safety and maintenance.

2 **SECTION 96.** 30.123 (6) of the statutes is created to read:

3 30.123 (6) Subsections (2) to (4) do not apply to the following:

4 (a) The construction or reconstruction of highway bridges to which s. 30.213
5 applies.

6 (b) The construction, reconstruction, maintenance, or repair of bridges by the
7 department of transportation in accordance with s. 30.341.

8 **SECTION 97.** 30.124 of the statutes is renumbered 30.351, and 30.351 (1)
9 (intro.), as renumbered, is amended to read:

10 30.351 (1) (intro.) Notwithstanding ss. 30.12, 30.20, 30.44, and 30.45, and if the
11 department finds that the activity will not adversely affect the public interest or
12 private rights or interests in fish and wildlife populations, navigation, or waterway
13 flood flow capacity and will not result in environmental pollution, ~~as defined in s.~~
14 ~~299.01 (4)~~, the department may do all of the following on public lands or waters:

15 **SECTION 98.** 30.1255 of the statutes is renumbered 30.352.

16 **SECTION 99.** 30.126 (title) and (2) to (9) of the statutes are renumbered 30.266
17 (title) and (2) to (9), and 30.266 (5) (g), as renumbered, is amended to read:

18 30.266 (5) (g) *May not have improper flotation devices.* No person may
19 construct, place, or maintain a fishing raft on authorized portions of the Wolf River
20 unless each flotation device used on the fishing raft is clean and uncontaminated,
21 properly attached to the fishing raft, and properly maintained in conformity with
22 minimum standards established by the department by rule. The department shall
23 establish minimum standards for the condition, attachment, and maintenance of

BILL

1 flotation devices used on fishing rafts. This paragraph applies to any device used to
2 provide flotation for a fishing raft, including each individual barrel or styrofoam
3 coffin.

4 **SECTION 100.** 30.126 (10) (title) and (a) (title) of the statutes are repealed.

5 **SECTION 101.** 30.126 (10) (a) of the statutes is renumbered 30.381 (3) (a) and
6 amended to read:

7 30.381 (3) (a) A person who violates ~~this section, any rule promulgated under~~
8 ~~this section s. 30.266~~ or any order issued by the department under ~~this section s.~~
9 30.266 shall forfeit not less than \$10 nor more than \$250 for each offense. Each day
10 ~~of violation constitutes during which a fishing raft exists in violation of s. 30.266 is~~
11 a separate offense.

12 **SECTION 102.** 30.126 (10) (b) (title) of the statutes is repealed.

13 **SECTION 103.** 30.126 (10) (b) of the statutes is renumbered 30.381 (3) (b) and
14 amended to read:

15 30.381 (3) (b) A person who violates any ordinance adopted or order issued by
16 the municipality under ~~this section s. 30.266~~ is subject to the penalty established by
17 ordinance. A Wolf River municipality may not establish this penalty at a level which
18 is less severe than the penalty established under par. (a).

19 **SECTION 104.** 30.13 (title) and (1) (intro.), (b) and (c) of the statutes are
20 amended to read:

21 **30.13 (title) Regulation of wharves, piers, and swimming rafts;**
22 **~~establishment of pierhead lines.~~** (1) CONSTRUCTION ALLOWED WITHOUT PERMIT
23 UNDER CERTAIN CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may construct
24 a wharf or pier in a navigable waterway extending beyond the ordinary high-water

BILL

1 mark or an established bulkhead line in aid of navigation without obtaining a permit
2 under s. 30.12 if all of the following conditions are met:

3 (b) The wharf or pier does not interfere with rights of other riparian ~~proprietors~~
4 owners.

5 (c) The wharf or pier does not extend beyond any pierhead line which is
6 established under ~~sub. (3)~~ s. 30.323.

7 **SECTION 105.** 30.13 (1m) (intro.) and (b) of the statutes are amended to read:

8 30.13 (1m) SWIMMING RAFTS ALLOWED WITHOUT PERMIT UNDER CERTAIN
9 CIRCUMSTANCES. (intro.) A riparian ~~proprietor~~ owner may place a swimming raft in
10 a navigable waterway for swimming and diving purposes without obtaining a permit
11 under s. 30.12 if all of the following conditions are met:

12 (b) The swimming raft does not interfere with rights of other riparian
13 ~~proprietors~~ owners.

14 **SECTION 106.** 30.13 (3) (title) of the statutes is repealed.

15 **SECTION 107.** 30.13 (3) of the statutes is renumbered 30.323 (1), and 30.323 (1)
16 (a), as renumbered, is amended to read:

17 30.323 (1) (a) Any municipality authorized by s. ~~30.11~~ 30.321 to establish a
18 bulkhead line may also establish a pierhead line in the same manner as it is
19 authorized to establish a bulkhead line, except that a metes and bounds legal
20 description is not required nor is the map required to be prepared by a registered land
21 surveyor and except that if the municipality has created a board of harbor
22 commissioners the municipality must obtain the approval of the board concerning
23 the establishment of the pierhead line in addition to obtaining the approval of the
24 department.

25 **SECTION 108.** 30.13 (4) (b) of the statutes is amended to read:

BILL

1 30.13 (4) (b) *Interferes with riparian rights.* A wharf or pier which interferes
2 with rights of other riparian ~~proprietors~~ owners constitutes an unlawful obstruction
3 of navigable waters unless a permit is issued for the wharf or pier under s. 30.12 or
4 unless authorization for the wharf or pier is expressly provided.

5 **SECTION 109.** 30.13 (4) (c) of the statutes is amended to read:

6 30.13 (4) (c) *Extends beyond pierhead line; exception.* A wharf or pier which
7 extends into navigable waters beyond any pierhead line established under ~~sub. (3)~~
8 s. 30.323 constitutes an unlawful obstruction of navigable waters unless a valid
9 permit, license, or authorization for the wharf or pier is ~~granted~~ issued or unless it
10 is a permissible preexisting wharf or pier. A wharf or pier is a permissible preexisting
11 wharf or pier if it existed prior to the establishment of the pierhead line, if it is not
12 extended or expanded after that date and if the ownership of the land to which it is
13 attached did not change after that date except that a wharf or pier continues its
14 status as a permissible preexisting wharf or pier for one year after the date the
15 change of ownership is recorded. The seasonal removal of a wharf or pier does not
16 affect its status as a permissible preexisting wharf or pier if it is reestablished in
17 substantially the same form. Status as a permissible preexisting wharf or pier does
18 not imply that authorization for the wharf or pier is provided for the purposes of par.
19 (a) or (b). The owner of a wharf or pier may submit evidence to the municipality that
20 it is a permissible preexisting wharf or pier at any time after the municipality
21 establishes the pierhead line.

22 **SECTION 110.** 30.13 (6) (title) of the statutes is repealed.

23 **SECTION 111.** 30.13 (6) of the statutes is renumbered 30.323 (2).

24 **SECTION 112.** 30.131 of the statutes is renumbered 30.283, and 30.283 (1)
25 (intro.) and (f) and (2), as renumbered, are amended to read:

BILL

1 30.283 (1) (intro.) Notwithstanding s. ~~30.133~~ 30.095, a wharf or pier of the type
2 which does not require a permit under ss. 30.12 (1) and 30.13 that abuts riparian land
3 and that is placed in a navigable water by a person other than the owner of the
4 riparian land may not be considered to be an unlawful structure on the grounds that
5 it is not placed and maintained by the owner if all of the following requirements are
6 met:

7 (f) The placement of the wharf or pier complies with the provisions of this
8 ~~chapter, with any rules promulgated under this chapter~~ subchapter and with any
9 applicable municipal regulations or ordinances.

10 (2) Notwithstanding s. ~~30.133~~ 30.095, an easement under sub. (1) may be
11 conveyed if it is conveyed at the same time, and to the same person, that the land to
12 which the easement is appurtenant is conveyed.

13 **SECTION 113.** 30.133 of the statutes is renumbered 30.095.

14 **SECTION 114.** 30.134 of the statutes is renumbered 30.85.

15 **SECTION 115.** 30.135 (1) (title) of the statutes is repealed and recreated to read:

16 30.135 (1) (title) PLACEMENT ALLOWED WITHOUT PERMIT UNDER CERTAIN
17 CIRCUMSTANCES.

18 **SECTION 116.** 30.135 (1) (a) (intro.) and 2. of the statutes are amended to read:

19 30.135 (1) (a) A riparian ~~proprietor~~ owner may place a water ski platform or
20 water ski jump in a navigable waterway without obtaining a permit if all of the
21 following requirements are met:

22 2. The platform or jump does not interfere with rights of other riparian
23 ~~proprietors~~ owners.

24 **SECTION 117.** 30.135 (2) (a) and (4) of the statutes are amended to read:

BILL

1 30.135 (2) (a) Upon receipt of a complete permit application, the department
2 shall either order a hearing or provide notice stating that it will proceed on the
3 application without a hearing unless a substantive written objection to issuance of
4 the permit is received within 30 days after publication of the notice. The department
5 shall provide a copy of the notice to the applicant for the permit, ~~the clerk of each~~
6 ~~municipality in which the water ski platform or water ski jump is to be located to each~~
7 representative of a local governmental unit required to receive notice under s. 30.04
8 (3), and to any other person required by law to receive notice. The department may
9 provide notice to other persons as it considers appropriate. The applicant shall
10 publish the notice as a class 1 notice under ch. 985 in a newspaper designated by the
11 department that is likely to give notice in the area to be affected by the permit. The
12 applicant shall file proof of publication under this paragraph with the department.

13 (4) EXEMPTION. ~~Section 30.02 does~~ The procedures under ss. 30.244, 30.245,
14 and 30.246 do not apply to a permit applications submitted application under this
15 section.

16 **SECTION 118.** 30.14 (title) of the statutes is repealed.

17 **SECTION 119.** 30.14 (1) (title) of the statutes is repealed.

18 **SECTION 120.** 30.14 (1) of the statutes is renumbered 30.327.

19 **SECTION 121.** 30.14 (2) of the statutes is renumbered 30.247 and amended to
20 read:

21 **30.247 Hearings by department.** Upon complaint by any person to the
22 department that any wharf, pier, or other structure exists in navigable water in
23 violation of s. 30.12 ~~or~~, 30.13, or ~~30.207~~ 30.223 or that any wharf, pier, or other
24 structure proposed to be built in navigable water will violate s. 30.12 ~~or~~, 30.13, or
25 ~~30.207~~ 30.223, the department shall investigate and may hold a hearing to

BILL

determine whether the wharf, pier, or other structure is or would be in violation of those sections. If no hearing is held, the complainant shall be informed of the results of the investigation.

SECTION 122. 30.15 (title) of the statutes is repealed.

SECTION 123. 30.15 (1) (title) of the statutes is renumbered 30.98 (1) (title) and amended to read:

30.98 (1) (title) OBSTRUCTIONS PENALIZED.

SECTION 124. 30.15 (1) (intro.) of the statutes is renumbered 30.98 (1) (intro.).

SECTION 125. 30.15 (1) (a), (b) and (c) of the statutes are renumbered 30.98 (1) (a), (b) and (c) and amended to read:

30.98 (1) (a) Unlawfully obstructs any navigable ~~waters~~ water and thereby impairs the free navigation ~~thereof~~ of the navigable water.

(b) Unlawfully places in any navigable waters ~~or in any tributary thereof~~ water any substance that may float into and obstruct any ~~such waters~~ navigable water or that may impede their free navigation of any navigable water.

(c) Constructs or maintains in any navigable waters, water ~~any boom not authorized by law~~ or aids in the construction or maintenance ~~therein~~, of any such boom not authorized by law.

SECTION 126. 30.15 (1) (d) of the statutes is renumbered 30.381 (4) (a) and amended to read:

30.381 (4) (a) ~~Constructs~~ Except as provided in par. (b), any person who constructs or places any structure or deposits any material in navigable waters in violation of s. 30.12 ~~or 30.13~~ shall forfeit not less than \$100 nor more than \$500 for each offense. Each day during which a structure or deposit of material exists in violation of s. 30.12 is a separate offense under this paragraph.

BILL

1 **SECTION 127.** 30.15 (3) (title) of the statutes is repealed.

2 **SECTION 128.** 30.15 (3) of the statutes is renumbered 30.98 (2).

3 **SECTION 129.** 30.16 of the statutes is renumbered 30.95.

4 **SECTION 130.** 30.18 (1) (intro.) of the statutes is created to read:

5 30.18 (1) DEFINITIONS. (intro.) In this section:

6 **SECTION 131.** 30.18 (1) (b) of the statutes is created to read:

7 30.18 (1) (b) “Major diversion” means a diversion that will result in a water loss
8 averaging, in any 30-day period, at least 2,000,000 gallons per day above a
9 permittee’s authorized base level of water loss.

10 **SECTION 132.** 30.18 (2) (a) (intro.) of the statutes is amended to read:

11 30.18 (2) (a) *Streams Diversions from streams.* (intro.) ~~No Unless a permit has~~
12 ~~been issued under this section, no person may divert water from a stream in this~~
13 ~~state without a permit under this section if the diversion meets either of the following~~
14 ~~conditions if any of the following applies:~~

15 **SECTION 133.** 30.18 (2) (b) of the statutes is amended to read:

16 30.18 (2) (b) *Streams or Major diversions from streams or lakes.* ~~No Unless a~~
17 ~~permit has been issued under this section, no person, except a person required to~~
18 ~~obtain an approval under s. 281.41, may divert water from any lake or stream in this~~
19 ~~state without a permit under this section if the diversion will result in a water loss~~
20 ~~averaging 2,000,000 gallons per day in any 30-day period above the person’s~~
21 ~~authorized base level of water loss is a major diversion. This paragraph does not~~
22 ~~apply to a person who is required to obtain an approval under s. 281.41.~~

23 **SECTION 134.** 30.18 (3) (title) and (a) (title), 1. and 2. of the statutes are
24 repealed.

BILL

1 **SECTION 135.** 30.18 (3) (a) 3. of the statutes is renumbered 30.18 (3m) (a) and
2 amended to read:

3 30.18 (3m) (a) ~~For a diversion under sub. (2) (a) 2., the application shall include~~
4 ~~written~~ Written statements of consent to the diversion from all riparian owners who
5 are making beneficial use of the water proposed to be diverted.

6 **SECTION 136.** 30.18 (3) (a) 4. of the statutes is repealed.

7 **SECTION 137.** 30.18 (3) (b) of the statutes is repealed.

8 **SECTION 138.** 30.18 (3m) (intro.) of the statutes is created to read:

9 30.18 (3m) APPLICATIONS FOR PERMITS; SPECIFIC REQUIREMENTS. (intro.) An
10 application for a permit under this section to divert water from a stream for the
11 purpose of agriculture or irrigation shall include all of the following:

12 **SECTION 139.** 30.18 (3m) (b) of the statutes is created to read:

13 30.18 (3m) (b) Evidence of permission or authority to enter any land through
14 which it is proposed to divert the water for the purpose of obtaining information
15 required for drafting the plans for the project.

16 **SECTION 140.** 30.18 (4) (title) of the statutes is repealed and recreated to read:

17 30.18 (4) (title) ACTION BY DEPARTMENT.

18 **SECTION 141.** 30.18 (4) (a) of the statutes is renumbered 30.18 (4) (a) (intro.)
19 and amended to read:

20 30.18 (4) (a) (intro.) Upon receipt of a complete application for a permit under
21 this section, the department shall ~~follow the notice and hearing procedures under s.~~
22 30.02 (3) and (4) either deny the application as provided in s. 30.246 (1) or shall give
23 notice of receipt of the application for the permit as provided in s. 30.244. In addition
24 to the notice requirements under s. 30.02 (3) and (4) 30.246 (2), the department shall

BILL

SECTION 141

1 mail a copy of the notice to ~~every person upon whose land any part of the canal or any~~
2 ~~other structure will be located, to the~~ all of the following:

3 2. The clerk of the next town municipality that is the next municipality
4 downstream, to the from the point of the proposed diversion.

5 3. The clerk of any village or city each municipality in which the lake or stream
6 from which water is proposed to be diverted is located and which is adjacent to any
7 municipality in which the diversion will take place ~~and to each.~~

8 4. Each person specified in s. 281.35 (5) (b) or (6) (f), if applicable.

9 **SECTION 142.** 30.18 (4) (a) 1. of the statutes is created to read:

10 30.18 (4) (a) 1. Each owner of land over which water is proposed to be diverted.

11 **SECTION 143.** 30.18 (4) (b) of the statutes is amended to read:

12 30.18 (4) (b) If a hearing on the application for a permit under this section is
13 conducted as a part of a hearing under s. 293.43, the notice and hearing provisions
14 in that section supersede the notice, mediation, and hearing provisions ~~of par. (a)~~
15 under ss. 30.244 and 30.246.

16 **SECTION 144.** 30.18 (5) (title) of the statutes is repealed and recreated to read:

17 30.18 (5) (title) ISSUANCE OF PERMITS.

18 **SECTION 145.** 30.18 (5) (a) (intro.) of the statutes is amended to read:

19 30.18 (5) (a) ~~Streams~~ Diversions from streams. (intro.) The department shall
20 ~~approve an application for issue~~ a permit required under sub. (2) (a) if the
21 department determines ~~both~~ that all of the following conditions apply:

22 **SECTION 146.** 30.18 (5) (a) 1. of the statutes is amended to read:

23 30.18 (5) (a) 1. ~~That the~~ The proposed diversion will not ~~injure any public rights~~
24 ~~in navigable waters~~ be detrimental to the public interest.

25 **SECTION 147.** 30.18 (5) (a) 1m. of the statutes is created to read:

BILL

1 30.18 (5) (a) 1m. The proposed diversion is for use on riparian land.

2 **SECTION 148.** 30.18 (5) (a) 2. of the statutes is amended to read:

3 30.18 (5) (a) 2. ~~That the~~ Either the water to be diverted is surplus water, or if
4 ~~it is not surplus water, that all riparians not being beneficially used or all riparian~~
5 ~~owners~~ who may be adversely affected by the diversion have consented to the
6 proposed diversion.

7 **SECTION 149.** 30.18 (5) (b) of the statutes is amended to read:

8 30.18 (5) (b) ~~Streams~~ Major diversions from streams or lakes. The department
9 shall ~~approve an application for issue~~ a permit required under sub. (2) (b) for a major
10 diversion if the grounds for approval specified under s. 281.35 (5) (d) are met ~~and, if~~
11 ~~the. If a~~ permit is also required under sub. (2) (a), if the department ~~makes the~~
12 ~~determinations specified under par. (a)~~ shall issue a permit under this paragraph
13 only if the conditions for a permit under par. (a) apply to the major diversion.

14 **SECTION 150.** 30.18 (6) (title) of the statutes is amended to read:

15 30.18 (6) (title) ~~PERMITS; USE OF WATER~~ PERMIT CONDITIONS; REPORTING; REVIEW.

16 **SECTION 151.** 30.18 (6) (a) of the statutes is amended to read:

17 30.18 (6) (a) *Contents of permit.* The department shall specify on each permit
18 issued under this section the quantity of water that may be diverted and the times
19 during which water may be diverted. In addition, if the permit is one which is
20 required under sub. (2) (b) for a major diversion, the permit shall comply with s.
21 281.35 (6).

22 **SECTION 152.** 30.18 (6) (b) of the statutes is renumbered 30.18 (6) (dm) and
23 amended to read:

24 30.18 (6) (dm) *Use of water.* A person who is issued a permit for the purpose
25 of irrigation or agriculture may use the water on any land contiguous to the

BILL**SECTION 152**

1 permittee's riparian land, but may not withdraw more water than it ~~did~~ the
2 permittee withdrew before August 1, 1957, ~~without applying to the department for~~
3 ~~a modification of the permit~~ unless the department approves the additional amount
4 to be withdrawn by modifying the permittee's permit.

5 **SECTION 153.** 30.18 (6) (c) of the statutes is renumbered 30.18 (6) (bm) and
6 amended to read:

7 30.18 (6) (bm) *Reporting required.* ~~The department shall require each~~
8 ~~permittee~~ A person who is issued a permit under this section to report its shall report
9 to the department the volume and rate of withdrawal and its volume and rate of
10 water loss, if any, The report shall be in the form and at the times specified by the
11 department.

12 **SECTION 154.** 30.18 (6) (cm) 3. of the statutes is created to read:

13 30.18 (6) (cm) 3. A permit issued under this section before August 1, 1957, is
14 exempt from the review requirements under subds. 1. and 2.

15 **SECTION 155.** 30.18 (6) (d) (title) of the statutes is renumbered 30.18 (6) (cm)
16 (title).

17 **SECTION 156.** 30.18 (6) (d) of the statutes is renumbered 30.18 (6) (cm) 1. and
18 amended to read:

19 30.18 (6) (cm) 1. ~~If the permit is one that is required under sub. (2) (a), but not~~
20 ~~under sub. (2) (b), and the permit was issued on or after August 1, 1957, Except as~~
21 provided in subds. 2. and 3. the department shall review the permit at least once
22 every 5 years.

23 2. If the permit is one that is required under sub. (2) (b) for a major diversion,
24 the department shall review the permit as required under s. 281.35 (6) (b).

25 **SECTION 157.** 30.18 (6m) (title) of the statutes is repealed and recreated to read:

BILL

1 30.18 (6m) (title) RESCISSION.

2 **SECTION 158.** 30.18 (6m) (a) (intro.) of the statutes is amended to read:

3 30.18 (6m) (a) Streams; mandatory rescission. (intro.) The department shall
4 revoke rescind a permit issued under sub. (5) (a), which is not subject to sub. (2) (b),
5 if it a permit for a major diversion, if the department finds that any of the following
6 applies:

7 **SECTION 159.** 30.18 (6m) (a) 1. and 2. of the statutes are amended to read:

8 30.18 (6m) (a) 1. ~~That the~~ The water being diverted is ~~no longer surplus water,~~
9 ~~except that the department may allow the diversion to continue if all riparians has~~
10 ~~become water that is being beneficially used, unless all riparian owners~~ adversely
11 affected by the diversion continue to consent to it.

12 2. If the diversion is from a stream designated by the department as a trout
13 stream, ~~that the revocation~~ the rescission is desirable for conservation purposes.

14 **SECTION 160.** 30.18 (6m) (b) of the statutes is amended to read:

15 30.18 (6m) (b) Streams; discretionary rescission. The department may revoke
16 rescind any permit issued under sub. (5) (a), which is not subject to sub. (2) (b), if it
17 a permit for a major diversion, if the department finds that the diversion is
18 detrimental to the stream from which the water is diverted.

19 **SECTION 161.** 30.18 (6m) (c) of the statutes is amended to read:

20 30.18 (6m) (c) Major diversion. The department may ~~revoke a~~ rescind any
21 permit issued under sub. (5) (b) for a major diversion only as provided under s. 281.35
22 (6).

23 **SECTION 162.** 30.18 (7) of the statutes is amended to read:

24 30.18 (7) **PREREQUISITES TO PROJECT CONSTRUCTION WORK.** ~~After an application~~
25 ~~under this section has been filed with the department, the applicant may enter any~~

BILL

land through which it is proposed to divert the water for the purposes of making any surveys required for drafting the plans for the project, but no work shall Work may not be commenced on the canal, headworks, or other structures necessary for the project for which a permit has been issued under this section until the plans for the same canal, headworks, or other structures have been approved by the department. Any person ~~having received~~ who has been issued a permit required under sub. (2) (a) for a diversion that is not a major diversion may ~~construct~~ commence the work upon the land of another ~~the canal and other works~~ as authorized by the permit only after the damage ~~which will be sustained by the owner or owners of such~~ of that land has been satisfied, or has been determined as provided for in ch. 32, and compensated for any damages that the owner will incur as a result of the work or after the final sum so for condemnation of the property under ch. 32 has been determined and all costs have been paid to the persons entitled thereto owner or to the clerk of the circuit court on their the owner's account.

NOTE: Current s. 30.18 (7) allows the applicant to “enter any land through which it is proposed to divert water”, after the permit application is filed, to conduct surveys. This provision is deleted, and replaced by a requirement in new s. 30.18 (3m) (a) for the applicant to obtain permission or authority to enter the land.

SECTION 163. 30.18 (8) of the statutes is renumbered 30.353.

SECTION 164. 30.18 (9) of the statutes is repealed.

SECTION 165. 30.19 (1) (intro.) of the statutes is renumbered 30.19 (1g) (intro.) and amended to read:

30.19 (1g) PERMITS REQUIRED. (intro.) Unless a permit has been granted by the department issued under this section or authorization has been granted by the legislature, it is unlawful no person may do any of the following:

SECTION 166. 30.19 (1) (a) of the statutes is renumbered 30.19 (1g) (a) and amended to read:

BILL

1 30.19 (1g) (a) ~~To construct~~ Construct, dredge, or enlarge any artificial
2 ~~waterway, canal, channel, ditch, lagoon, pond, lake or similar waterway where the~~
3 ~~purpose is ultimate connection with an existing navigable stream, lake or other~~
4 ~~navigable waters, or where~~ water body that connects with a navigable waterway.

5 ~~(am) Construct, dredge, or enlarge any part of the an artificial waterway water~~
6 ~~body that~~ is located within 500 feet of the ordinary high-water mark of an existing
7 ~~navigable stream, lake or other navigable waters~~ waterway.

8 **SECTION 167.** 30.19 (1) (b) of the statutes is renumbered 30.19 (1g) (b) and
9 amended to read:

10 30.19 (1g) (b) ~~To connect any natural or artificially constructed~~ Connect, by a
11 ~~navigable surface channel, any navigable waterway, canal, channel, ditch, lagoon,~~
12 ~~pond, lake or similar waterway or any artificial water body with an existing body of~~
13 ~~a navigable water, for navigation or any other purpose~~ waterway.

14 **SECTION 168.** 30.19 (1) (c) of the statutes is renumbered 30.19 (1g) (c) and
15 amended to read:

16 30.19 (1g) (c) ~~To grade or otherwise~~ Grade or remove top soil topsoil from the
17 ~~bank of any navigable stream, lake or other body of navigable water~~ waterway where
18 the area exposed by ~~such~~ the grading or removal will exceed 10,000 square feet.

19 **SECTION 169.** 30.19 (1b) of the statutes is created to read:

20 30.19 (1b) DEFINITION. In the section, “artificial water body” means a proposed
21 or existing body of water that does not have a history of being a lake or stream or of
22 being part of a lake or stream.

23 **SECTION 170.** 30.19 (1m) (intro.) of the statutes is amended to read:

24 30.19 (1m) ~~EXCEPTION.~~ EXCEPTIONS. (intro.) Subsection ~~(1)~~ (1g) does not apply
25 to any of the following:

BILL

SECTION 171

1 **SECTION 171.** 30.19 (1m) (a) of the statutes is amended to read:

2 30.19 (1m) (a) The construction ~~and~~ or repair of any public highways ~~highway~~.

3 **SECTION 172.** 30.19 (1m) (b) of the statutes is amended to read:

4 30.19 (1m) (b) Any agricultural uses use of land.

5 **SECTION 173.** 30.19 (1m) (c) and (d) of the statutes are repealed.

NOTE: Current s. 30.19, which requires a permit for enlargement and protection of waterways, contains an exception for navigable lakes and streams and any portion of Lake Michigan within Milwaukee County. This exception is not included in this bill so that s. 30.19 will apply uniformly to all navigable waters. However, current s. 30.05 (renumbered s. 30.223) continues to apply where lake bed grants have been made.

6 **SECTION 174.** 30.19 (1m) (e) of the statutes is amended to read:

7 30.19 (1m) (e) Any work required to maintain the original dimensions of an
8 enlargement of ~~a waterway authorized~~ an artificial water body done pursuant to a
9 permit or legislative authorization under sub. (1) (a) ~~or (b)~~ (1g) (a) or (am).

10 **SECTION 175.** 30.19 (1m) (f) of the statutes is created to read:

11 30.19 (1m) (f) Any work required to maintain any water body that serves as
12 a connection under sub. (1g) (b).

13 **SECTION 176.** 30.19 (2) (intro.) and (a) to (d) of the statutes are repealed.

14 **SECTION 177.** 30.19 (2) (e) of the statutes is renumbered 30.19 (3b) (b) and
15 amended to read:

16 30.19 (3b) (b) ~~The name and address of the secretary of any property owners'~~
17 ~~association pertaining~~ formed with respect to the bodies of water affected by the
18 ~~project or if there is no such association, the names and addresses of.~~ If no property
19 owners' association exists, the department shall give notice to at least 5 persons who
20 own real property located adjacent to the bodies of water. If fewer than 5 persons own
21 real property located adjacent to the bodies of water, ~~the names and addresses of such~~

BILL

1 ~~persons that own real estate so located shall be given~~ department shall give notice
2 to all of these persons.

3 **SECTION 178.** 30.19 (2) (f) of the statutes is repealed.

4 **SECTION 179.** 30.19 (3) (title) of the statutes is repealed.

5 **SECTION 180.** 30.19 (3) (a) of the statutes is renumbered 30.19 (3b) (a) and
6 amended to read:

7 30.19 (3b) (a) ~~Section 30.02 (3) and (4) applies to permit applications under sub.~~
8 ~~(1) (b) and (c). Notice shall be provided to the clerks of the county and~~ The clerk of
9 each municipality in which the project or affected body of water is located ~~and to the~~
10 ~~persons under sub. (2) (c). For any permit application which affects the.~~

11 (c) The Milwaukee Metropolitan Sewerage District for a project that would
12 affect the Milwaukee River, the Menomonee River, the Kinnickinnic River, the Root
13 River or any tributary of those rivers, ~~special notice shall be given to the Milwaukee~~
14 ~~metropolitan sewerage district. The metropolitan sewerage district shall have 30~~
15 ~~days to respond to the special notice.~~

16 **SECTION 181.** 30.19 (3) (b) of the statutes is repealed.

17 **SECTION 182.** 30.19 (3b) (intro.) of the statutes is created to read:

18 30.19 (3b) ACTION BY DEPARTMENT. (intro.) Upon receipt of a complete
19 application for a permit under sub. (1g), the department shall follow the procedure
20 allowing the department to give notice under s. 30.245 or shall deny the application
21 as provided in s. 30.246 (1). Upon receipt of a complete application for a permit under
22 sub. (1g) (b) or (c) for a project in which there is or will be an effect on navigable waters
23 other than an effect on water quality, the department shall give notice of receipt of
24 the application as provided in s. 30.244 or shall deny the application as provided in

BILL**SECTION 182**

s. 30.246 (1). In addition to the notice requirements under s. 30.246 (2), the department shall give notice to all of the following:

NOTE: This provision continues the applicability of notice and hearing provisions only to permit applications under sub. (2) (b) and (c). Under the current statute, the notice and hearing is not required for dredging artificial water bodies for the purpose of connection to a navigable waterway or where part of the artificial water body is within 500 feet of the ordinary high-water mark of the navigable waterway. In addition, an exemption from the notice and hearing is provided for grading or removing topsoil from the bank of navigable waters where the only effect is on water quality. This exemption allows DNR to develop a "short form" permit for grading or removing topsoil from the bank where advance notice is given to the department and the work conforms to rules of the department that describe methods for such work.

SECTION 183. 30.19 (4) of the statutes is renumbered 30.19 (4) (intro.) and amended to read:

30.19 (4) ISSUANCE OF PERMIT. (intro.) ~~If the department finds that the project will not injure public rights or interest, including fish and game habitat, that the~~ The department shall issue a permit under this section if the department determines that all of the following apply:

(b) The project will not cause environmental pollution as defined in s. 299.01 (4), that any.

(c) Any enlargement connected to a navigable waterways conforms to the requirement of waterway complies with all of the laws for the relating to platting of land and for sanitation and that no.

(d) No material injury will result to the rights of any riparian owners on any body of water affected will result, the department shall issue a permit authorizing the enlargement of the affected waterways of real property that abuts any water body that is affected by the project.

SECTION 184. 30.19 (4) (a) of the statutes is created to read:

30.19 (4) (a) The project will not be detrimental to the public interest.

SECTION 185. 30.19 (5) of the statutes is amended to read:

BILL

1 30.19 (5) ~~CONDITIONS OF PERMIT~~ REQUIREMENT FOR PUBLIC ACCESS. The A permit
2 issued under this section to construct an artificial water body and to connect it to a
3 navigable waterway shall provide that all require that the artificial waterways
4 ~~constructed under this section which are connected to navigable waterways shall be~~
5 ~~water body be a public waterways . The department may impose such further~~
6 ~~conditions in the permit as it finds reasonably necessary to protect public health,~~
7 ~~safety, welfare, rights and interest and to protect private rights and property~~
8 ~~waterway.~~

9 **SECTION 186.** 30.195 (1) of the statutes is amended to read:

10 30.195 (1) **PERMIT REQUIRED.** ~~No~~ Unless a permit has been issued under this
11 section or authorization has been granted by the legislature, no person may change
12 the course of or straighten a navigable stream ~~without a permit issued under this~~
13 ~~section or without otherwise being expressly authorized by statute to do so.~~

14 **SECTION 187.** 30.195 (2) of the statutes is repealed and recreated to read:

15 30.195 (2) **ACTION BY DEPARTMENT.** Upon receipt of a complete application for
16 a permit under this section for an activity that involves the relocation of more than
17 a total of 500 feet in stream length, the department shall either deny the application
18 as provided in s. 30.246 (1) or shall give notice of receipt of the application as provided
19 in s. 30.244. For a permit for an activity that involves the relocation of a total of 500
20 or less feet in stream length, the department shall either deny the application as
21 provided in s. 30.246 (1) or shall follow the procedure allowing the department to give
22 notice under s. 30.245.

23 **SECTION 188.** 30.195 (3) of the statutes is renumbered 30.195 (3) (intro.) and
24 amended to read:

BILL

SECTION 188

1 30.195 (3) ~~GRANTING ISSUANCE~~ OF PERMIT. (intro.) Upon application therefor,
2 the ~~The~~ department shall ~~grant~~ issue a permit ~~to the~~ under this section if the
3 department determines that all of the following apply:

4 (a) The applicant is the owner of any land to change the course of or straighten
5 a upon which the change in course or straightening of the navigable stream on such
6 land, if such will occur.

7 (b) The proposed change of course or straightening of the navigable stream will
8 improve the economic or aesthetic value of the owner's applicant's land and will.

9 (c) The proposed change of course or straightening of the navigable stream will
10 not adversely affect the flood flow capacity of the stream or otherwise be detrimental
11 to public rights or the public interest.

12 (d) The proposed change of course or straightening of the navigable stream will
13 not be detrimental to the rights of other riparians riparian owners located on the
14 stream. If the department finds that the rights of ~~such riparians~~ these riparian
15 owners will be adversely affected, it may ~~grant~~ issue the permit only with their the
16 consent. ~~Such permit may be granted on the department's own motion after its own~~
17 ~~investigation or after public hearing and after giving prior notice of such~~
18 ~~investigation or hearing~~ of all of these riparian owners.

19 **SECTION 189.** 30.195 (4) and (7) of the statutes are repealed.

NOTE: It is not clear whether current s. 30.195 is subject to the requirement of a notice and hearing. Current s. 30.02 provides that the notice and hearing provisions of that statute apply in any proceeding under ch. 30 where public notice is required. Under s. 30.195 (3), the DNR may issue a permit either on its own motion or after a public hearing. This does not appear to be a clear statement that a public hearing is required, and it is therefore uncertain whether the notice and hearing requirement of current s. 30.02 applies. This bill makes the permit under s. 30.195 subject to the new mandatory notice requirements under s. 30.244 and the new hearing requirements under s. 30.245 for relocation of more than 500 feet of stream length, which corresponds with the division between type II and type III actions regarding stream locations for environmental review under ch. NR 150, Wis. Adm. Code.

BILL

This bill eliminates the current provision in s. 30.195 (4) that states that no common law liability and no liability under any other statute for damages resulting from the change in the course of the stream or straightening a stream is affected by s. 30.195. Nothing in current s. 30.195, or s. 30.195 as amended by this bill, suggests that an exemption from liability is created. Compliance with the provisions in a permit under s. 30.195 may have a bearing on the issue of negligence, but current s. 30.195 (4) is unnecessary. Also, the provision in the current statute that creates a presumption of exercising due care in complying with a permit is better addressed by the court as part of a negligence action.

The exception for land owned by Milwaukee County or a city, village or town in Milwaukee County is deleted. This provision was originally created as part of s. 30.195 when it was adopted in 1961, and was added as a floor amendment. This exception is not included in this bill so that s. 30.195 will apply uniformly to all navigable waters.

1 **SECTION 190.** 30.196 of the statutes is renumbered 30.313, and 30.313 (intro.),
2 as renumbered, is amended to read:

3 **30.313 Enclosure of navigable waters; issuance of permits to**
4 **municipalities.** (intro.) A municipality may enclose navigable waters by directing,
5 placing, or restricting navigable waters into an enclosed drain, conduit, storm sewer,
6 or similar structure if the department grants the municipality a permit. The
7 department may grant this permit to a municipality after following the notice and
8 hearing requirements under s. 30.02 (3) and (4) if it the procedures under ss. 30.244
9 and 30.246 have been followed if the department finds that granting the permit:

10 **SECTION 191.** 30.20 (1) (title) of the statutes is repealed and recreated to read:

11 30.20 (1) (title) CONTRACT OR PERMIT REQUIRED.

12 **SECTION 192.** 30.20 (1) (a) of the statutes is amended to read:

13 30.20 (1) (a) ~~No~~ Unless a contract has been entered into with the department
14 under sub. (2), no person may remove any material from the bed of any navigable lake
15 or from the bed of any outlying waters ~~of this state without first obtaining a contract~~
16 ~~as provided in sub. (2).~~

17 **SECTION 193.** 30.20 (1) (b) of the statutes is renumbered 30.20 (1) (b) (intro.)
18 and amended to read:

BILL**SECTION 193**

1 30.20 (1) (b) (intro.) ~~Except as provided under pars. (c) and (d), no~~ No person
2 may remove any material from the bed of any lake or stream not mentioned under
3 par. (a) ~~without first obtaining a permit from the department under sub. (2) (c).~~
4 unless one of the following applies:

5 **SECTION 194.** 30.20 (1) (b) 1. and 2. of the statutes are created to read:

6 30.20 (1) (b) 1. The department has issued the person a permit under sub. (3).

7 2. The department has determined under par. (c) that the removal is exempt
8 from a permit under sub. (3).

9 **SECTION 195.** 30.20 (1) (c) of the statutes is repealed and recreated to read:

10 30.20 (1) (c) The exemption under s. 30.215 does not exempt a person from the
11 permitting requirement under par. (b) if the proposed removal for an agricultural
12 purpose is from a farm drainage ditch and the proposed removal may have a
13 long-term adverse effect on cold-water fishery resources or may destroy fish
14 spawning beds or nursery areas. A person who proposes such a removal shall notify
15 the department at least 10 days before the removal is scheduled to start if the
16 removal may have such a long-term adverse effect or may destroy fish spawning
17 beds or nursery areas.

18 **SECTION 196.** 30.20 (1) (d) of the statutes is renumbered 30.263 (3) and
19 amended to read:

20 30.263 (3) The drainage board for the Duck Creek Drainage District may,
21 without a permit under ~~sub. (2) (c)~~ s. 30.20 (3), remove material from a drain that the
22 board operates in the Duck Creek Drainage District if the removal is required, under
23 rules promulgated by the department of agriculture, trade and consumer protection,
24 in order to conform the drain to specifications imposed by the department of

BILL

1 agriculture, trade and consumer protection after consulting with the department of
2 natural resources.

3 **SECTION 197.** 30.20 (2) (title), (a) and (b) of the statutes are amended to read:

4 30.20 (2) (title) CONTRACTS FOR REMOVAL FROM NAVIGABLE LAKES AND OUTLYING
5 WATERS. (a) The department, ~~whenever consistent with public rights,~~ may enter into
6 ~~contracts~~ a contract on behalf of the state for the removal and lease or sale of any
7 material from the bed of any navigable lake or of any of the outlying waters, ~~and for~~
8 ~~the lease or sale of the material.~~ Every if the contract is consistent with public rights.
9 Each contract entered into under this paragraph shall contain such any conditions
10 as may be that the department determines are necessary for the protection of the
11 public interest and the ~~interests~~ interest of the state ~~and.~~ Each contract entered into
12 under this paragraph shall fix the compensation to be paid to the state for the
13 material ~~so to be~~ removed, except that ~~no~~ the contract may not require that any
14 compensation may be paid for the material if the contract is with a municipality, as
15 defined in s. 281.01 (6), and if the material is to will be used for a municipal purpose
16 and will not ~~for resale.~~ No be resold. Each contract entered into under this
17 paragraph may not run for ~~a longer period~~ more than 5 years. and lease or sale

18 (b) The department, ~~whenever consistent with public rights,~~ may enter into
19 ~~contracts~~ a contract on behalf of the state for the removal of any mineral, ore and,
20 or other material from beneath the bed of a navigable lakes and waters, where water
21 that the state may own if the contract will be consistent with public rights and if the
22 ~~waters would~~ navigable water will not be disturbed in the removal operation ~~and for~~
23 ~~the lease and sale of such mineral, material and ore and provide the necessary~~
24 ~~regulations for all acts incident thereto.~~ Every such. Each contract entered into
25 under this paragraph shall contain such any conditions as may be that the

BILL**SECTION 197**

1 department determines are necessary for the protection of the public interest and the
2 ~~interests~~ interest of the state, and. Each contract entered into under this paragraph
3 shall fix the compensation to be paid to the state for the ~~material, mineral and ore~~
4 ~~so~~ mineral, ore, or other material to be removed. No Each contract entered into,
5 pursuant to under this paragraph, shall may not run for ~~a longer period~~ more than
6 75 years. ~~Should any doubt exist as to whether the state, in fact, owns such lake bed~~
7 ~~or stream bed such contract or lease shall be for such interests, if any, as the state~~
8 ~~may own. Title to the royalties to be paid when~~ After mining operations are have
9 begun, the department shall be determined at such future time as determine the date
10 before which the royalties for ~~ores so sold are paid or~~ any mineral, ore, or other
11 material that is removed and sold are due and payable.

12 **SECTION 198.** 30.20 (2) (c) of the statutes is renumbered 30.20 (3) (a) and
13 amended to read:

14 30.20 (3) (a) ~~A permit~~ The department may issue a permit to remove material
15 from the bed of any lake or stream not ~~included~~ described in sub. (1) (a) ~~may be issued~~
16 ~~by~~ if the department if it finds that the issuance of such ~~a~~ the permit will be
17 consistent with the public interest in the ~~water involved. A permit or contract issued~~
18 ~~under this paragraph may be issued for up to 10 years if the applicant notifies the~~
19 ~~department at least 30 days before removing any material~~ lake or stream.

20 **SECTION 199.** 30.20 (3) (title) and (b) of the statutes are created to read:

21 30.20 (3) (title) PERMITS FOR REMOVAL FROM OTHER WATERS.

22 (b) If an applicant for a permit under par. (a) submits the application at least
23 30 days before the proposed date of the removal, the department may issue the
24 permit for a period of up to 10 years.

25 **SECTION 200.** 30.20 (4) of the statutes is created to read:

BILL

1 30.20 (4) ACTION BY DEPARTMENT. (a) Upon receipt of a complete application for
2 a permit or contract under this section for an activity that involves the removal of
3 3,000 or more cubic yards of material, the department shall either deny the
4 application as provided in s. 30.246 (1) or shall give notice of receipt of the application
5 as provided in s. 30.244, except as provided in par. (b).

6 (b) The department shall either deny the application as provided in s. 30.246
7 (1) or shall follow the procedure allowing the department to give notice under s.
8 30.245 if any of the following applies:

- 9 1. The activity involves of the removal of less than 3,000 cubic yards of material.
- 10 2. The activity involves the restoration of the original dimensions of an area
11 legally dredged during the 10 years before the date of application for the permit or
12 contract.

NOTE: Current s. 30.20 does not contain a requirement for public notice or a hearing under s. 30.02. This bill makes a permit or contract under s. 30.20 subject to the notice and hearing requirements of new ss. 30.244, 30.245, and 30.246 for dredging that involves the removal of more than 3,000 cubic yards, which corresponds with the threshold for a type II action for purposes of environmental review under ch. NR 150, Wis. Adm. Code.

13 **SECTION 201.** 30.202 of the statutes is renumbered 30.333, and 30.333 (3), as
14 renumbered, is amended to read:

15 30.333 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
16 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
17 permit, license, approval, authorization, fee, notice, hearing, procedure, or penalty
18 specified under this chapter, s. 29.601, ~~30.01 to 30.20, 30.21 to 30.99, 59.692, 61.351,~~
19 62.231, or 87.30, or chs. 281 to 285 or 289 to 299, except s. 281.48, or specified in any
20 rule promulgated, order issued, or ordinance adopted under those sections or
21 chapters.

BILL**SECTION 202**

1 **SECTION 202.** 30.2025 of the statutes is renumbered 30.278, and 30.278 (5) (d),
2 as renumbered is amended to read:

3 30.278 (5) (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
4 (4).

5 **SECTION 203.** 30.2026 of the statutes is renumbered 30.279, and 30.279 (2) (d)
6 and (3) (a), as renumbered, are amended to read:

7 30.279 (2) (d) The village of Belleville shall create any artificial barrier under
8 this section in compliance with all state laws that relate to navigable bodies of water,
9 except s. 30.12 (1) ~~and (2)~~.

10 (3) (a) The village of Belleville shall maintain any artificial barrier created as
11 authorized under sub. (1). If a landowner of more than 500 feet of Lake Belle View
12 shoreline, a portion of which is located within 1,000 feet of any such artificial barrier,
13 is dissatisfied with the manner in which the village of Belleville is maintaining the
14 barrier, the owner may maintain the barrier in lieu of the village, upon approval of
15 the department. The village or a landowner who maintains the barrier shall comply
16 with all state laws that relate to navigable bodies of water, except s. 30.12 (1) ~~and (2)~~.
17 The department may require the village of Belleville or the landowner to maintain
18 the barrier in a structurally and functionally adequate condition.

19 **SECTION 204.** 30.203 of the statutes is renumbered 30.355, and 30.355 (4) (d),
20 as renumbered, is amended to read:

21 30.355 (4) (d) It may not cause environmental pollution, ~~as defined in s. 299.01~~
22 (4).

23 **SECTION 205.** 30.2035 of the statutes is repealed.

NOTE: The repealed statute requires the DNR to undertake a shoreline protection study. This study has been issued and the DNR is in the process of promulgating rules.

BILL

1 **SECTION 206.** 30.2037 of the statutes is renumbered 30.267.

2 **SECTION 207.** 30.204 of the statutes is renumbered 30.373, and 30.373 (5), as
3 renumbered, is amended to read:

4 **30.373 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES.** Activities of the
5 department in conducting the lake acidification experiment are exempt from any
6 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
7 notice, hearing, procedure, or penalty specified under this subchapter and subchs.
8 V and VI and s. 29.601 (3), 30.01 to 30.03, 30.06 to 30.16, 30.18 to 30.29, 30.50 to
9 30.99, 59.692, 61.351, 62.231, 87.30, 287.81, 299.15 to 299.23, 299.91, 299.95, or
10 299.97 or chs. 281, 283 or 289 to 292 or specified in any rule promulgated, order
11 issued, or ordinance adopted under any of those sections or chapters.

12 **SECTION 208.** 30.205 of the statutes is renumbered 30.335, and 30.335 (title),
13 as renumbered, is amended to read:

14 **30.335 (title) Water resources development projects; federal**
15 **agreements.**

16 **SECTION 209.** 30.206 of the statutes is renumbered 30.221, and 30.221 (1) and
17 (7), as renumbered, are amended to read:

18 **30.221 (1)** For activities or projects which require a permit ~~or approval~~ under
19 ss. 30.12 (3) (a) and 30.19 ~~(1)~~ (1g) (a), the department may issue a general permit
20 authorizing a class of activities, according to rules promulgated by the department.
21 Before issuing general permits, the department shall determine, after an
22 environmental analysis and notice and hearing under ss. 227.17 and 227.18, that the
23 cumulative adverse environmental impact of the class of activity is insignificant and
24 that issuance of the general permit will not injure public rights or interest, cause

BILL**SECTION 209**

1 environmental pollution, as defined in ~~s. 299.01 (4)~~, or result in material injury to the
2 rights of any riparian owner.

3 (7) This section does not apply to an application for a general permit for the
4 Wolf River and Fox River basin area or any area designated under s. ~~30.207~~ 30.223
5 (1m) if the application for the general permit may be submitted under s. ~~30.207~~
6 30.223.

7 **SECTION 210.** 30.207 of the statutes is renumbered 30.223, and 30.223 (1), (3)
8 (a) and (c) 6., (4) (c) 1., (5), (6) (a) and (7) (a) and (b), as renumbered, are amended to
9 read:

10 30.223 (1) GEOGRAPHICAL AREA. For purposes of this section and s. ~~30.12 (3) (b)~~
11 30.276, the Wolf River and Fox River basin area consists of all of Winnebago County;
12 the portion and shoreline of Lake Poygan in Waushara County; the area south of
13 STH 21 and east of STH 49 in Waushara County; that portion of Calumet County in
14 the Lake Winnebago watershed; all of Fond du Lac County north of STH 23; that
15 portion of Outagamie County south and east of USH 41; that portion of Waupaca
16 County that includes the town of Mukwa, city of New London, town of Caledonia,
17 town of Fremont; and the portion and shoreline of Partridge Lake and the Wolf River
18 in the town of Weyauwega.

19 (3) (a) Any local entity, as defined listed in s. 30.77 ~~(3) (d)~~ (11) (a), any group
20 of 10 riparian owners who will be affected by the issuance of a general permit, or any
21 contractor who is or has been involved in the construction of structures or along
22 navigable waters may apply for a general permit under this section.

23 (c) 6. The names and addresses of at least 5 persons who own real property
24 located adjacent to the navigable waters located in the proposed permit area. If fewer

BILL

1 than 5 persons own real property adjacent to such these waters, the application shall
2 include the names and addresses of all of these persons.

3 (4) (c) 1. Any local entity, ~~as defined in s. 30.77 (3) (dm), (11) (a)~~ that has an
4 interest in the quality or use of or that has jurisdiction over the navigable waters
5 located in the proposed permit area.

6 (5) ~~HEARING REQUIREMENTS~~ NOTICE AND HEARING. If an activity for which an
7 application for which a general permit has been submitted would be subject to the
8 ~~hearing and notice~~ provisions under s. ~~30.02 (3) and (4)~~ 30.244 or 30.245 for the
9 issuance of an individual permit, the department shall comply with those provisions.
10 ~~Notice and hearing shall be required on an application for a general permit under~~
11 ~~this section only if a notice and hearing are required under s. 30.02 (3) and (4) for the~~
12 ~~activity as part of an application for an individual permit under this chapter.~~

13 (6) (a) The department shall issue a general permit under this section if the
14 department determines that the cumulative adverse environmental impact of the
15 activity in the proposed permit area is insignificant and that the issuance of the
16 general permit will not injure public rights or interest, cause environmental
17 pollution, ~~as defined in s. 299.01 (4),~~ or result in material injury to the rights of any
18 riparian owners.

19 (7) (a) At least 15 days before beginning the activity that is authorized by a
20 general permit under this section, the person who wishes to conduct the activity shall
21 submit a notice to the department and shall pay the fee specified in s. ~~30.28~~ 30.243

22 (2) (b) 2. The notice shall describe the activity, state the name of the person that will
23 be conducting the activity, and state the site where the activity will be conducted.
24 The notice shall also contain a statement signed by the person conducting the

BILL**SECTION 210**

1 activity that the person will act in conformance with the standards contained in the
2 general permit.

3 (b) Upon receipt of a notice that complies with par. (a), the department may
4 inform the person that the activity may not be conducted under the general permit
5 if conditions at the site where the activity would be conducted would cause adverse
6 environmental impact, injure public rights and interests, or cause environmental
7 pollution, ~~as defined in s. 299.01 (4)~~. The department shall respond to the person
8 within 15 days after receiving the notice. Failure of the department to respond
9 within 15 days shall constitute the department's approval of the activity under the
10 general permit.

11 **SECTION 211.** 30.21 of the statutes is renumbered 30.293.

12 **SECTION 212.** 30.213 (title) of the statutes is created to read:

13 **30.213 (title) Municipal bridge construction.**

14 **SECTION 213.** 30.215 of the statutes is created to read:

15 **30.215 Farm drainage ditches.** Except as provided in s. 30.20 (1) (c), a project
16 that is for an agricultural purpose and is located in or adjacent to a farm drainage
17 ditch is exempt from the requirement for a permit, contract, or approval under this
18 subchapter unless it is shown, by means of a U.S. geological survey map or other
19 reliable scientific evidence, that the farm drainage ditch was a stream that was a
20 navigable water prior to ditching.

NOTE: The current statute related to farm drainage ditches is as follows:

"30.10 (4) (c) Notwithstanding any other provision of law, farm drainage ditches are not navigable within the meaning of this section unless it is shown that the ditches were navigable streams before ditching. For purposes of this paragraph, "farm drainage ditch" means any artificial channel which drains water from lands which are used for agricultural purposes."

The proposed language in new s. 30.215 differs in 2 key respects from the current statute. The primary difference is that the exemption clearly applies to a project for an agricultural purpose, not to the farm drainage ditch itself. Thus, a project for other than

BILL

agricultural purposes would require a permit, even though the drainage ditch was originally constructed as and continues to be used as a farm drainage ditch.

The other difference is that the statute specifies the kind of evidence that may be used to show stream history.

SECTION 214. 30.24 of the statutes is renumbered 30.357.

SECTION 215. 30.243 (3) (c) of the statutes is created to read:

30.243 (3) (c) This section does not apply to a permit issued under s. 30.221.

SECTION 216. 30.244 to 30.246 of the statutes are created to read:

30.244 Permit procedures; mandatory notice of receipt of application.

For the issuance of permits or the entering into of contracts which require notice of the receipt of application by the department, the department shall give written notice of receipt of the application as provided in s. 30.246 (2) unless the department denies the application in s. 30.246 (1).

30.245 Permit procedures; optional notice of receipt of application. (1)

For the issuance of permit or the entering into of contracts which do not require notice of the receipt of the application by the department, the department shall either deny the application as provided in s. 30.246 (1) or shall approve the application without notice or hearing unless the department decides to act under sub. (2).

(2) The department may give written notice of receipt of the application as provided in s. 30.246 (2) if the department determines that a substantial interest of any person may be adversely affected by issuing the permit or entering into the contract.

30.246 Permit procedures; denial; notice; mediation; hearing. (1)

DENIALS. The department may deny an application for a permit or contract under this subchapter after receipt of a complete permit or contract application. If the department denies an application, the department shall notify the applicant in writing.

BILL**SECTION 216**

1 (2) NOTICE REQUIREMENTS. (a) If the department gives notice of receipt of an
2 application under s. 30.244 or 30.245 (2), the notice shall describe the project and the
3 applicable notice, mediation, and hearing procedures under this section. The
4 department shall give notice of receipt to all of the following:

- 5 1. The applicant.
- 6 2. Each representative of a local governmental unit required to receive notice
7 under s. 30.04 (3).
- 8 3. Any person who is required by law to receive notice.

9 (b) The department shall also post the notice on the Internet at a site
10 determined by the department.

11 (c) After notice has been given as required under pars. (a) and (b), the applicant,
12 or any other person authorized by the department, shall publish the notice of receipt
13 of the application as a class 1 notice, under ch. 985, in a newspaper designated by the
14 department that is likely to give notice in the area to be affected by the permit or
15 contract. The applicant shall file proof of publication under this paragraph with the
16 department.

17 (3) REQUEST FOR HEARING. (a) Any person may request in writing a contested
18 case hearing on an application for a permit or contract or for mediation under sub.
19 (5) within 30 days after the notice is published under sub. (2) (c).

20 (b) If a person requesting the contested case hearing under par. (a) or after
21 medication is ended as provided in sub. (5) is not the applicant for the permit or
22 contract, the request shall describe the requester's objection to the permit or contract
23 and shall contain all of the following:

BILL

1 1. A description of the legal issues involved that is sufficiently specific to allow
2 the department to determine which provisions of this subchapter may be violated if
3 the permit is issued or the contract is entered into.

4 2. A description of the facts supporting the objection that is sufficiently specific
5 to determine how the objector believes the project, as proposed, may result in a
6 violation of the provisions of this subchapter as described in subd. 1.

7 3. A commitment by the person requesting the contested case hearing under
8 this paragraph to appear at the contested case hearing and present information
9 supporting the requester's objection.

10 (c) The department shall approve or deny the application without a hearing if
11 any of the following applies:

12 1. The request for a contested case hearing does not comply with all of the
13 requirements under pars. (a) and (b).

14 2. The objection contained in the request is not a substantive written objection.

15 (d) The department shall determine that an objection is substantive if the
16 department determines that the supporting facts contained in the objection under
17 par. (b) 2. appear to be substantially true and raise reasonable doubts as to whether
18 provisions of this subchapter may be violated if the permit is issued or the contract
19 is entered into.

20 (e) In making the determination under par. (d), the department may request
21 additional information from the person requesting a contested case hearing, and the
22 person shall submit the requested information within 14 days after receiving the
23 request. If the person fails to submit the requested information within 14 days, the
24 department shall make a determination that the objection is not a substantive
25 objection.

BILL**SECTION 216**

1 (f) If the department denies an application under par. (c) or sub. (1) or (5) (c),
2 the applicant may request in writing a contested case hearing within 30 days after
3 receiving the denial.

4 (4) REFERRAL FOR HEARING. If the request for a contested case hearing complies
5 with sub. (3) (a) and (b), the objection contained in the request is a substantive
6 objection, and no mediation is pending under sub. (5), the department shall
7 authorize the contested case hearing and notify the division of hearings and appeals
8 under s. 227.43 (2) (a).

9 (5) MEDIATION. (a) At any time after notice has been given under sub. (2) and
10 before the date on which the contested case hearing will begin, the department shall
11 allow for mediation if the department, the applicant for the permit or contract, any
12 person who requests a contested case hearing on the permit or contract, and any
13 person with a substantial interest in the permit or the contract all agree to
14 mediation. The participants shall determine how the mediator is to be selected and
15 compensated.

16 (b) If the mediator determines that an agreement cannot be reached by
17 mediation, the mediator shall certify the mediation as having ended. Within 30 days
18 after the date on which the mediation is certified as having ended, any participant
19 in the mediation may request in writing to the department that the department
20 proceed on the application.

21 (c) If the department does not receive a request under par. (b) within the 30-day
22 period, the department shall either approve the application without a hearing or
23 deny the application.

24 (6) HEARING. (a) Upon receiving notification from the department under this
25 subsection, the division of hearings and appeals shall assign a hearing examiner and

BILL

1 shall ensure that the hearing is conducted within 60 days after the notification is
2 received.

3 (b) The division of hearings and appeals shall give notice of the hearing at least
4 10 days before the hearing to the applicant, to each person who was given notice
5 under sub. (2) (a), and to each person who requested a contested case hearing.

6 (c) The applicant shall publish a class 1 notice, under ch. 985, of the contested
7 case hearing in a newspaper, designated by the department, that is likely to give
8 notice in the area to be affected by the permit or contract. The notice shall be
9 published at least 10 days before the hearing. The applicant shall file proof of
10 publication under this paragraph with the hearing examiner at or before the
11 hearing.

NOTE: The notice and hearing provisions in current s. 30.02 are repealed and recreated here. The basic structure of this statute remains the same: the notice and hearing procedures apply to any permit or contract in which a notice and hearing is required by direct cross-reference to this section. In any other statute that provides a permit or contract for activities in navigable waters, the DNR may apply the notice and hearing procedures if the substantial interests of any party may be adversely affected by the proceeding. The statute provides a time frame within a contested case hearing may be requested and requires various notices to be mailed or published.

Proposed ss. 30.244, 30.245, and 30.246 have several major additions compared to the current statute. The first difference is that the current statute does expressly provide that the DNR may deny the application for a permit or contract. The current statute requires the DNR either to schedule a hearing or issue notice that it will proceed without a hearing unless a request for hearing is made. As a result, an individual who opposes a permit must request a hearing, even if the DNR expects to deny the application. The new procedure allows the DNR to deny the application for a permit or contract, and the applicant may request a contested case hearing on this decision.

The 2nd difference is that the DNR is directed to post notice of the complete permit or contract application and the opportunity to request a hearing on the Internet. In addition, a provision in the current statute requiring the DNR to provide notice to any person who requests notice of projects of that type, location or other classification is eliminated. Also, notice is required to affected town sanitary districts, public inland lake protection and rehabilitation districts and county drainage boards.

The 3rd difference is that a mediation option is provided. There is no comparable provision in the current statute. The applicant and DNR must agree to be a party to the mediation. The mediation process is primarily expected to address issues of concern to owners of property near the proposed project. If an agreement is not reached in mediation, the parties to the mediation may request a contested case hearing.

The 4th difference is that the requirement of a substantive written objection, which is a condition for obtaining a contested case hearing under the current statute, is clarified and made more detailed. The current statute requires the objector to state why the

BILL**SECTION 216**

project may violate statutory provisions applicable to the project. The purpose of this requirement is to avoid contested case hearings when there is not merit to the challenge--i.e., the facts alleged by the objector are not true or do not relate to the legal standards for issuing or denying the permit. The special committee believes that the current statute, as administered by DNR, has not been sufficient to avoid challenges to permits in contested case hearings that are ultimately determined to be without merit. This bill adds to the information that must be submitted by the objector, allows the department to request additional information from the objector, and requires the department to do a thorough evaluation of the grounds for the objection, both legal and factual.

This provision omits the option for the department to schedule a public hearing upon receipt of an application, rather than providing notice of the application. This option is no longer necessary if the department is given authority to deny an application, as provided in this section.

1 **SECTION 217.** 30.25 of the statutes is renumbered 30.269.

2 **SECTION 218.** 30.253 of the statutes is created to read:

3 **30.253 Permit or contract conditions.** The department may impose
4 additional conditions on a permit or contract under this subchapter if the
5 department determines that the conditions are necessary to ensure compliance with
6 any applicable provision under this subchapter.

7 **SECTION 219.** 30.26 of the statutes is renumbered 30.271.

8 **SECTION 220.** 30.263 (title) and (1) (title) of the statutes are created to read:

9 **30.263 (title) Duck Creek Drainage District. (1) (title) DECLARATION OF**
10 **NAVIGABILITY.**

11 **SECTION 221.** 30.265 of the statutes is renumbered 30.375.

12 **SECTION 222.** 30.266 (1) (intro.) of the statutes is created to read:

13 **30.266 (1) DEFINITIONS. (intro.)** In this section:

14 **SECTION 223.** 30.27 of the statutes is renumbered 30.273.

15 **SECTION 224.** 30.275 of the statutes, as affected by 2003 Wisconsin Act 33, is
16 renumbered 30.359.

17 **SECTION 225.** 30.277 of the statutes, as affected by 2003 Wisconsin Act 33, is
18 renumbered 30.361.